

401 KAR 47:110. Registered permit-by-rule.

RELATES TO: KRS 224.01-010, 224.10-100, 224.10-105, 224.40-100, 224.40-110, 224.40-120, 224.40-305, 224.40-310, 224.40-315, 224.40-320, 224.40-325, 224.40-330, 224.40-340, 224.40-605, 224.40-650, 224.43-010, 224.43-020, 224.43-070, 224.43-310, 224.43-315, 224.43-330, 224.43-340, 224.43-345, 224.43-350, 224.70-100, 224.70-110, 224.99-010, 224.99-020

STATUTORY AUTHORITY: KRS 224.10-100(19)(c), (24), 224.40-100, 224.40-305

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(19)(c), (24) and 224.40-305 authorize the cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing, and disposal of waste obtain a permit. This administrative regulation establishes requirements for registered permits-by-rule and the standards for the certification program.

Section 1. Issuance of Registered Permit-by-rule. (1) Before accepting waste, the owner or operator of a solid waste site or facility specified in 401 KAR 47:080, Section 2(6) shall notify the cabinet by submitting a registration. For solid waste sites or facilities other than medical waste transfer stations, the registration shall become effective five (5) business days after the cabinet receives it unless the cabinet denies the registration within that time. For medical waste transfer stations, the registration shall become effective thirty (30) days after the cabinet receives it unless the cabinet denies the registration within that time. The cabinet shall hold a public hearing in accordance with 401 KAR 47:140, Section 10, prior to accepting or denying the registration upon the request of any individual. The owner or operator of a registered permit-by-rule facility shall comply with the environmental performance standards in 401 KAR 30:031 in order for the registered permit-by-rule to remain effective.

(2) The registration for a registered permit-by-rule facility shall be submitted to the cabinet on one (1) of the following registration forms:

- (a) DEP 7059; Solid Waste Transfer Station, Convenience Center, and Recycling Center;
- (b) DEP 7059-A; Solid Waste Composting Facility;
- (c) DEP 7059-E; Class I Solid Waste Landfarm;
- (d) DEP 7059-H; Less-than-one-acre Construction/Demolition Debris (CDD) Landfill; or
- (e) DEP 7059-J; Solid Waste Incinerator.

(3) A registration that is determined to be administratively incomplete may be denied within five (5) business days after receiving the registration. Thereafter, if the cabinet determines that a registration fails to include all of the information required, the cabinet shall notify the operator that the registration is deficient. The owner or operator shall submit the requested information within thirty (30) calendar days of the date of the notice of deficiency. The cabinet's review shall be conducted in accordance with the requirements of 401 KAR 47:025.

(4) Prior to submission of the registration, the owner or operator shall prepare a groundwater protection plan in accordance with 401 KAR 5:037.

(5) The owner or operator shall publish a notice two (2) weeks prior to submission of the registration in a daily or weekly newspaper of general circulation where the proposed facility is located. Public notices shall be of a size to include not less than two (2) column widths for advertising and shall be in a display format. The public notice shall contain the following:

- (a) Name and address of the owner or operator;
- (b) The type of facility;
- (c) A brief description of the business to be conducted; and
- (d) Name and address of the facility.

Section 2. Operating Requirements for Registered Permit-by-rule Facilities. (1) The owner or operator of a facility operating under a registered permit-by-rule, except as provided in Section 3 of this administrative regulation, shall not:

- (a) Store, treat or dispose of solid waste not specified in the registration; or
- (b) Exceed the design capacities specified in the registration.

(2) The owner or operator of a facility operating under a registered permit-by-rule shall comply with the environmental performance standards in 401 KAR 30:031.

(3) The owner or operator of a registered permit-by-rule facility shall keep records as provided in this section.

(a) The owner or operator of a less-than-one (1) acre construction/demolition debris landfill or solid waste incinerator shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7046, Annual Waste Quantity Report, to the cabinet annually and upon closure of the facility.

(b) The owner or operator of a composting facility shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7108, Annual Report for a Solid Waste Composting Facility, to the cabinet annually and upon closure of the facility.

(c) The owner or operator of a landfarming facility shall report quarterly pursuant to KRS 224.43-330. In addition, the owner or operator shall submit DEP 7064, Annual Report for a Class I Solid Waste Landfarm, to the cabinet annually and upon closure of the facility.

(d) The owner or operator of a registered permit-by-rule convenience center, transfer station or commercial recycling center shall document records on DEP 7046, Annual Waste Quantity Report. Records shall be kept on site and available for inspection for three (3) years.

(4) The owner or operator of a solid waste incinerator shall conduct the Toxicity Characteristic Leaching Procedure (TCLP) test described in 401 KAR 31:030, Section 5, before the initial disposal of any ash and whenever the characteristics of the waste accepted by the incinerator significantly change. The owner or operator shall keep a record of the current TCLP laboratory analysis report required by this section available for inspection by the cabinet for three (3) years. The owner or operator of a solid waste incinerator shall report the volume of ash generated to the cabinet annually and upon closure of the facility. The report shall be submitted no later than January 31 for the preceding calendar year.

Section 3. Changes to a Registered Permit-by-rule. (1) A revised registration shall be submitted as follows:

(a) Solid wastes not previously identified in the registration may be stored, treated, or disposed at a facility operating under a registered permit-by-rule if the owner or operator submits a revised registration to the cabinet prior to that change.

(b) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet prior to increasing the design capacity of processes used at a facility.

(c) The owner or operator of a facility operating under a registered permit-by-rule shall submit a revised registration to the cabinet prior to changing the processes for the storage, treatment or disposal of solid waste, using additional processes, or changing the owner or operator.

(2) The revised registration shall become effective five (5) business days after the cabinet receives it, unless the cabinet denies the registration within that time.

Section 4. Revocation of a Registered Permit by Rule. The cabinet may revoke a registered permit-by-rule for the following causes:

- (1) Noncompliance by the owner or operator with a condition of the registration;

- (2) The owners, operator's, or key personnel's failure during the registration process to disclose all information required by the cabinet;
- (3) The owner's, operator's, or key personnel's misrepresentation of any information required by the cabinet at any time;
- (4) The cabinet's determination that the operation endangers human health, safety, or the environment;
- (5) The owner's, operator's or key personnel's violation of any requirement of KRS Chapter 224 or the administrative regulations promulgated pursuant thereto; or
- (6) A change to the registered-permit-by-rule that was made without complying with Section 3 of this administrative regulation.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) DEP 7059; "Solid Waste Transfer Station, Convenience Center, and Recycling Center", November 2016;
- (b) DEP 7059-A; "Solid Waste Composting Facility", November 2016;
- (c) DEP 7059-E; "Class I Solid Waste Landfarm", November 2016;
- (d) DEP 7059-H; "Less-than-one-acre Construction/Demolition Debris", November 2016;
- (e) DEP 7059-J; "Solid Waste Incinerator", November 2016;
- (f) DEP 7064; "Annual Report for a Class I Solid Waste Landfarm", November 2016;
- (g) DEP 7108; "Annual Report for a Solid Waste Composting Facility", November 2016; and
- (h) DEP 7046; "Annual Waste Quantity Report", November 2016.

(2) This material may be inspected, copied, or obtained at the Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or at any of the division's field offices Monday through Friday, 8 a.m. to 4:30 p.m.: 1508 Weston, Bowling Green, Kentucky 42104; 102 Burkesville Street, Columbia, Kentucky 42728; 8020 Ewing Boulevard, Suite 110, Florence, Kentucky 41042; 233 Birch Street, Hazard, Kentucky 41701; Regional State Office Building, 85 State Police Road, Room 345, London, Kentucky 40741; 9116 Leesgate Road, Louisville, Kentucky 40222-4925; Madisonville State Office Building, 625 Hospital Drive, Madisonville, Kentucky 42431; 200 Christy Creek Road, Suite 2, Morehead, Kentucky 40351; 4500 Clarks River Road, Paducah, Kentucky 42003. (25 Ky.R. 2433; Am. 26 Ky.R. 73; 374; 730; eff. 9-8-99; TAm eff. 7-8-2016; TAm eff. 12-21-2016.)